

## March 25, 2014 – REGULAR SESSION

President Baxter called the meeting to order at 7:35 p.m. and read the Open Public Meetings Statement:

Almighty God who holds the fate of Man and Nation, we most humbly beseech thee to bless these deliberations, and these thy servants, that they may act with wisdom and understanding for the good of our community and thy greater glory. Amen.

Flag Salute

The notice requirements provided for in the “Open Public Meetings Act” have been satisfied. Notice of this meeting was properly given in a notice which was transmitted to the Times of Trenton and the Trentonian, filed with the Clerk of the Township of Ewing and posted in the Ewing Township Municipal Complex, all on the 13th day of March, 2014.

**THE PUBLIC WILL HAVE AN OPPORTUNITY TO ADDRESS THE COUNCIL DURING THE “STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC” SEGMENT OF THE MEETING. MEMBERS OF THE PUBLIC ARE REQUESTED TO SIGN IN ON SHEET PROVIDED IN THE FRONT OF THE ROOM. ALL QUESTIONS AND COMMENTS FROM THE PUBLIC WILL BE DIRECTED TO THE COUNCIL PRESIDENT, WHEN ADDRESSING THE COUNCIL, PLEASE GIVE YOUR NAME AND YOUR ADDRESS.**

**THE COUNCIL INVITES AND ENCOURAGES PARTICIPATION BY THE PUBLIC IN ITS MEETINGS, HOWEVER A MEMBER OF THE PUBLIC MAY UTILIZE FIVE MINUTES OF TIME FOR REMARKS AND QUESTIONS, UNLESS OTHERWISE ENGAGED IN A DIALOGUE WITH A MEMBER OF THE COUNCIL, ANY FURTHER REMARKS OR QUESTIONS BEYOND THE TIME LIMIT MUST BE AUTHORIZED BY THE PRESIDENT OF THE COUNCIL.**

### ROLL CALL

- |                               |                              |
|-------------------------------|------------------------------|
| ▪ Ms. Keyes-Maloney – Present | Jim McManimon, Administrator |
| ▪ Mr. Schroth – Present       | Joanna Mustafa, CFO          |
| ▪ Ms. Steward – Present       | Maeve Cannon, Attorney       |
| ▪ Ms. Wollert – Present       | Susan Bate, Deputy Clerk     |
| ▪ President Baxter - Present  |                              |

### STATEMENTS AND COMMENTS FROM MEMBERS OF THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Charles Green (979 Bear Tavern Road) said that for the past four or five years he has been bringing up the deer population issue. Mr. Green then said that the other day he witnessed eight deer bolt across Bear Tavern Road. Mr. Green wanted to know what has been done about the deer population, besides just putting up signs, as it is a dangerous situation.

The Administrator responded that we worked with the County to put up deer signs along County and Township roads and that he has met with the County naturalist to discuss some type of regional deer program. The Township does not allow hunting because it is too close to residential areas. The Administrator then explained that there are limited ideas about what to do. We will reach out to the County again to see what can be done.

President Baxter asked the Administrator what are the options for this ongoing problem.

The Administrator replied that we cannot allow a gun hunt, at best, bow and arrow. The Administrator said that the County has tried deer management via chemical means and bolting in Princeton but it did not work. Areas with open space have allowed hunting. There is no solution at this time. The Administrator added that some people do not want the deer, others do not want us to kill the deer at all. The Administrator said that we have discussed with the County a bow and arrow hunt, but that is problematic.

Mr. Green stated that previous Councils had requested a study of the number of accident's caused by deer and said that if Council had those numbers, and the cost to the taxpayer, Council would understand the urgency.

President Baxter responded that we have that information; the issue is we need to find a solution right now and there are none.

Mr. Green responded that he heard the Administrator state that there are some solutions but these solutions are not acceptable to some people. Mr. Green then said that there is no compromise when it comes to a child's life. Mr. Green added that the question is if Council will show some fortitude to do something to look out for a child's life rather than to look out for people who love animals.

There were no further questions or comments from members of the Public.

### CONSENT AGENDA

The Deputy Clerk read the Consent Agenda: (Resolution #14R-/65)

1. Authorization for the Chief Financial Officer to Pay Township Bills in the Amount of \$1,254,360.30
2. A Resolution Authorizing a Refund, as Recommended by the Township Registrar, for Overpayment in the Amount of \$120.00 to Orland's Ewing Memorial Chapel, 1534 Pennington Road, Ewing, NJ 08618 for an Overpayment of Certified Death Certificates
3. A Resolution Authorizing a Refund, as Recommended by the Tax Collector, for Overpayment in the amount of \$1984.27 for February 1, 2014 tax quarter to Richter, Judy, 18 Hickory Hill Dr., Ewing, NJ, 08618, for property owner Richter, Judy, for Block: 229 Lot: 52 also known as 18 Hickory Hill Dr., for overpayment of February 1, 2014 tax quarter.
4. A Resolution Authorizing a Cancel, as Recommended by the Tax Collector, of the 2014 Sewer Charges for various property owners due to the gas explosion which occurred on March 4, 2014
5. A Resolution Approving Justin K. Leese as a Senior Firefighter Member of the Prospect Heights Volunteer Fire Company
6. A Resolution Authorizing the Conduct of an On Premise 50-50 Cash Raffle Sponsored by the Children's Home Society of NJ on May 9, 2014
7. A Resolution Authorizing the Conduct of a Bingo Sponsored by the Children's Home Society of NJ on May 9, 2014
8. A Resolution Authorizing the Conduct of an On-Premise Merchandise Raffle Sponsored by EASEL (Ewing Animal Shelter Extension League) on May 2, 2014
9. A Resolution Authorizing the New Jersey State Police to Hold its Annual Chase (5KRUN)
10. A Resolution Authorizing Islamic Center of Ewing to Hold a Block Party/Road Closing on August 9<sup>th</sup>, 2014

There were no questions or comments from Council or the Public. Mr. Schroth moved the Resolution, seconded by Ms. Wollert. President Baxter asked for a roll call.

### ROLL CALL

Ms. Wollert	YES
Mr. Schroth	YES
Ms. Keyes-Maloney	YES
Ms. Steward	YES
President Baxter	YES

**ORDINANCE(S) FOR FIRST READING AND INTRODUCTION**

- 1. The Deputy Clerk read (Ordinance #14-03) AN ORDINANCE FOR THE CALENDAR YEAR 2014 TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)**

The CFO explained that this allows us to increase our appropriations over the State release number of ½ percent to 3 ½ percent to allow for the increase in appropriations and to allow for a cap bank for the next two years.

There were no questions or comments from Council or members of the Public. Ms. Keyes-Maloney then moved the Ordinance, seconded by Ms. Wollert. President Baxter called for a roll call.

**ROLL CALL**

Ms. Wollert	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
Ms. Steward	YES
President Baxter	YES

**ORDINANCE(S) FOR SECOND READING, PUBLIC HEARING AND FINAL ADOPTION**

- 1. The Deputy Clerk read (Ordinance #14-02) AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 252 PARKS AND PLAYGROUNDS TO CREATE A COMMUNITY GARDENING PROGRAM**

**WHEREAS**, Community Gardening Programs promote and enhance the recreational, educational and nutritional needs, health and welfare of the local residents; and

**WHEREAS**, the Township wishes to support and promote community gardening activities by designating land for a community gardening program pursuant to N.J.S.A. 40A:12-15(j) and by creating such a Program within the Township.

**BE IT ORDAINED** by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1 Chapter 252, Parks and Playgrounds is hereby amended and supplemented by the addition of § 252-7 “Community Garden” to read as follows:

**§ 252-7 Ewing Community Garden.**

- A. Establishment. Pursuant to the Township’s authority to make open spaces available to non-profit associations for community gardening under N.J.S.A. 40A:12-15(j), the Township hereby creates a community gardening program and designates a portion of Township owned property located on Whitehorse Road Extension for the program’s use as a community garden (the “Garden”). The location of the Garden may be changed from time to time, as may be required by Township needs.
- B. Garden Licenses. Persons interested in using the Garden shall register annually with the Township Clerk and shall execute all forms and acknowledgements as may be required by the Township for such participation, including a limited license agreement (the “License”). The License shall not convey a durable interest in land, and may be revoked without compensation at any time, for no cause at all by the Township. No person shall be granted use of any portion of the Garden without first entering a License agreement. The term of a License shall be for a twelve (12) month period, effective as of March 1 each year and terminating on the last day of February. If said date falls on a Saturday, Sunday or legal holiday, the registration period shall commence the first business day thereafter.

- C. Management of Garden. The Township designates management of the Garden to the Ewing Community Gardeners' Association ("ECGA"), a nonprofit, unincorporated association formed for the purpose of managing the Garden, or its successor. The ECGA shall be responsible for the general operation and planning of the Garden and is authorized to promulgate rules and regulations governing use of the Garden. The ECGA shall enforce the rules and regulations established herein, guidelines promulgated by the ECGA, and all applicable zoning, environmental, and other laws and regulations. The ECGA, however, shall have no authority to spend Township funds, enter into contracts on behalf of the Township or in any way obligate the Township legally or financially.
- D. Fee. The annual license fee shall be provided under Chapter 172 Fees and shall be paid to the Township at the time of signing the License agreement. Veterans shall not be required to pay the annual License fee.
- E. Rules and Regulations: The use of the Garden will be subject to the following rules and regulations:
- (1) Hours. Dawn to dusk. Use of plows, rototillers, or any loud equipment is limited to the hours between 7:00 a.m. and 10:00 p.m., and consistent with all applicable noise regulations.
  - (2) Pets. Free ranging pets and other animals are prohibited at all times. All pets are subject to Township ordinances regarding licensing and cleanup.
  - (3) Noncommercial Use. Anything grown shall be for the registrant's own consumption or gifting, and shall not be sold.
  - (4) Rules of Conduct. All persons using the Garden shall observe the rules established herein, any guidelines promulgated by the ECGA, and any other applicable law.
- F. Right of Inspection. The Township, its agents and employees shall have the right to conduct periodic inspections, with or without notice, of the Garden and the plots contained therein to ensure compliance with this ordinance and any other applicable law.
- G. The Township makes no representations, warranties, promises, or guarantees of any kind, including, without limitation, any representations about the quality, condition, or suitability of the Garden for gardening of any kind. The Township has no obligation to make any alterations, improvements, or repairs of any kind to the Garden, or to provide any services, including water, or other support.
- H. Indemnification. All persons using the Garden assume any and all risks associated with the use of the Garden and shall, as part of the License Agreement, agree to indemnify, defend and hold the Township, their officers, employees and agents harmless from any and all liabilities, claims, expenses, losses and/or damages which the Township may or might incur with respect to their use of the Garden.

Section 3 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 4 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 5 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

Adopted:

**There were no questions or comments from Council.  
Ms. Steward made a motion to open the public hearing, seconded by Ms. Keyes-Maloney. It was agreed by an unanimous voice vote.**

**Charles Green (979 Bear Tavern Road) asked how is the Ewing Community Gardening Association going to enforce the rules if they have no authority.**

Vice President Keyes-Maloney responded that the ECGA would need to notify the Township if there was a violation of the rules. Vice President Keyes-Maloney added that the guidelines are not binding, but just good practices.

Mr. Green stated that he is glad this is all on the record; that the Township is in charge and not the ECGA.

Councilman Schroth asked if a rules violation is reported to the Township, what is the next step – that mechanism seems unclear.

The Attorney responded that it would have to be context specific.

Councilman Schroth stated that he did not think we can “assume” when it comes to due process and then said that he believes that we need to discuss this further.

The Attorney replied that everyone signs the license agreement which says they will follow the guidelines. It is a self-governing group, so the guidelines can be amended.

Councilwoman Wollert said that the issue is number four – rules of conduct - and that perhaps it should be removed from the Ordinance as there is nothing in there that the Township can enforce and the ECGA can have their own guidelines.

Council and the Attorney then discussed the licensing agreement.

Mr. Green and Council then discussed who would be responsible for enforcement at the Township.

There were no additional comments or questions from members of the Public.

Ms. Wollert then moved to close the Public Hearing, seconded by Ms. Steward.

It was agreed by an unanimous voice vote.

Ms. Keyes-Maloney then moved the Ordinance, seconded by Mr. Schroth. President Baxter called for a roll call.

#### **ROLL CALL**

Mr. Schroth	YES
Ms. Keyes-Maloney	YES
Ms. Steward	YES
Ms. Wollert	YES
President Baxter	YES

#### **NEW BUSINESS**

1. The Deputy Clerk read (**Resolution #14R-66**) A RESOLUTION INTRODUCING AND APPROVING THE MUNICIPAL BUDGET OF THE TOWNSHIP OF EWING, COUNTY OF MERCER FOR THE CALENDAR YAR 2014

President Baxter asked the Attorney why the term “introducing and approving” is in the title even though it is only being introduced.

The Attorney responded that it is required that Council approve it for this introductory phase.

There were no additional questions or comments from Council. There were no questions from the Public.

Ms. Keyes-Maloney then moved the Resolution, seconded by Mr. Schroth.

President Baxter asked for a roll call.

#### **ROLL CALL**

Mr. Schroth	YES
Ms. Keyes-Maloney	YES
Ms. Steward	YES
Ms. Wollert	YES
President Baxter	YES

2. The Deputy Clerk read (**Resolution #14R-67**) A RESOLUTION AUTHORIZING CY2014 RESERVE BUDGET TRANSFERS

There were no questions or comments from Council or the Public.

Ms. Wollert then moved the Resolution, seconded by Ms. Keyes-Maloney. President Baxter called for a roll call.

**ROLL CALL**

Ms. Keyes-Maloney YES  
Ms. Wollert YES  
Mr. Schroth YES  
Ms. Steward YES  
President Baxter YES

3. The Deputy Clerk read (Resolution #14R-68) A RESOLUTION OF EMERGENCY TEMPORARY APPROPRIATION

There were no questions or comments from Council or the Public. Mr. Schroth then moved the Resolution, seconded by Ms. Wollert. President Baxter asked for a roll call.

**ROLL CALL**

Ms. Wollert YES  
Mr. Schroth YES  
Ms. Keyes-Maloney YES  
Ms. Steward YES  
President Baxter YES

4. The Deputy Clerk read (Resolution #14R-69) A RESOLUTION AUTHORIZING THE SUBMISSION OF A STRATEGIC PLAN FOR THE EWING MUNICIPAL ALLIANCE GRANT FOR FISCAL YEAR 2014

There were no questions or comments from Council or the Public. Ms. Steward then moved the Resolution, seconded by Ms. Wollert. President Baxter asked for a roll call.

**ROLL CALL**

Ms. Wollert YES  
Ms. Steward YES  
Ms. Keyes-Maloney YES  
Mr. Schroth YES  
President Baxter YES

5. The Deputy Clerk read (Resolution #14R-70) A RESOLUTION AMENDING RESOLUTION #11R-69 APPOINTING FUND COMMISSIONER AND ALTERNATE FUND COMMISSIONER FOR THE GARDEN STATE MUNICIPAL JOINT INSURANCE FUND

There were no questions or comments from Council or the Public. Mr. Schroth then moved the Resolution, seconded by Ms. Keyes-Maloney. President Baxter called for a roll call.

**ROLL CALL**

Ms. Keyes-Maloney YES  
Mr. Schroth YES  
Ms. Steward YES  
Ms. Wollert YES  
President Baxter YES

6. The Deputy Clerk read (Resolution #14R-71) A RESOLUTION APPROVING A REFORECLOSURE FOR 65 TROY AVENUE, TAX SALE CERTIFICATE NO. 1992-19

There were no questions or comments from Council or the Public. Ms. Wollert then moved the Resolution, seconded by Ms. Steward. President Baxter asked for a roll call.

**ROLL CALL**

Ms. Steward	YES
Ms. Wollert	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
President Baxter	YES

7. The Deputy Clerk read (Resolution #14R-72) A RESOLUTION AUTHORIZING EXTENSION OF THE GRANT WRITING AND ADMINISTRATIVE SERVICES CONTRACT TO RESOURCE DEVELOPMENT NETWORK, INC. FOR HUD AND NON HUD RELATED GRANTS IN AN ANNUAL AMOUNT OF \$64,800

Councilman Schroth asked what is the total figure for grants received last year. The Administrator replied that we do not have that information right now.

There were no additional comments or questions from Council. There were no questions or comments from the Public. Mr. Schroth then moved the Resolution, seconded by Ms. Keyes-Maloney. President Baxter then asked for a roll call.

**ROLL CALL**

Ms. Keyes-Maloney	YES
Mr. Schroth	YES
Ms. Steward	YES
Ms. Wollert	YES
President Baxter	YES

8. The Deputy Clerk read (Resolution #14R-73) A RESOLUTION WAIVING ALL CONSTRUCTION FEES UNDER § 172-25 FOR REBUILDING EFFORTS ATTRIBUTABLE TO THE MARCH 4, 2014, GAS EXPLOSION

There were no questions or comments from Council or the Public. Ms. Wollert then moved the Resolution, seconded by Ms. Steward. President Baxter asked for a roll call.

**ROLL CALL**

Ms. Steward	YES
Ms. Wollert	YES
Ms. Keyes-Maloney	YES
Mr. Schroth	YES
President Baxter	YES

9. The Deputy Clerk read (Resolution #14R-74) A RESOLUTION AUTHORIZING A LIMITED LICENSE AGREEMENT WITH DEWCON, INC. PERMITTING THE STORAGE OF CERTAIN MATERIALS AT 355 FOURTH STREET, EWING TOWNSHIP, NEW JERSEY

There were no questions or comments from Council or the Public. Ms. Wollert then moved the Resolution, seconded by Mr. Schroth. President Baxter called for a roll call.

**ROLL CALL**

Mr. Schroth	YES
Ms. Wollert	YES
Ms. Keyes-Maloney	YES
Ms. Steward	YES
President Baxter	YES

**CLOSED SESSION**

(None for this Meeting)

**ADJOURNMENT**

**There being no further business President Baxter called for a motion to adjourn. Ms. Wollert so moved, seconded by Ms. Steward. The meeting was adjourned at 8:15 p.m.**

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**Jennifer Keyes-Maloney, President**

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**Susan Bate, Deputy Municipal Clerk**